

1 BUREAU OF REAL ESTATE
2 P. O. Box 137007
3 Sacramento, CA 95813-7007

4 Telephone: (916) 263-8670

FILED

OCT 03 2017

BUREAU OF REAL ESTATE

By B. Nicholas

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:)	Case No. H-3092 FR
)	
12 BRANDON LEE YAGER,)	<u>STIPULATION AND AGREEMENT</u>
)	<u>IN SETTLEMENT AND ORDER</u>
13 Respondent.)	
)	

14
15 It is hereby stipulated by and between Respondent BRANDON LEE YAGER
16 ("Respondent"), acting by and through counsel Frank M. Buda, and the Complainant, acting by
17 and through Jason D. Lazark, Counsel for the Bureau of Real Estate, as follows for the purpose
18 of settling and disposing of the First Amended Accusation filed on March 16, 2017, in this
19 matter:

20 1. All issues which were to be contested and all evidence which was to be
21 presented by Complainant and Respondent at a formal hearing on the First Amended
22 Accusation, which hearing was to be held in accordance with the provisions of the
23 Administrative Procedure Act ("APA"), shall instead and in place thereof be submitted solely
24 on the basis of the provisions of this Stipulation and Agreement In Settlement and Order
25 ("Stipulation and Agreement").

26 2. Respondent has received, read, and understands the Statement to
27 Respondent, the Discovery Provisions of the APA and the First Amended Accusation filed by

1 the Bureau of Real Estate in this proceeding.

2 3. On March 10, 2017, Respondent filed a Notice of Defense pursuant to
3 Section 11505 of the Government Code for the purpose of requesting a hearing on the
4 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice
5 of Defense. Respondent acknowledges that Respondent understands that by withdrawing said
6 Notice of Defense, Respondent will thereby waive Respondent's right to require the
7 Commissioner to prove the allegations in the First Amended Accusation at a contested hearing
8 held in accordance with the provisions of the APA and that Respondent will waive other rights
9 afforded to Respondent in connection with the hearing such as the right to present evidence in
10 defense of the allegations in the First Amended Accusation and the right to cross-examine
11 witnesses.

12 4. This Stipulation and Agreement is based on the factual allegations contained in
13 the First Amended Accusation. In the interest of expediency and economy, Respondent chooses
14 not to contest these factual allegations, but to remain silent and understands that, as a result
15 thereof, these factual statements will serve as a prima facie basis for the "Determination of
16 Issues" and "Order" set forth below. The Commissioner shall not be required to provide further
17 evidence to prove such allegations.

18 5. This Stipulation and Agreement and Respondent's decision not to contest the
19 First Amended Accusation are made for the purpose of reaching an agreed disposition of this
20 proceeding and are expressly limited to this proceeding and any other proceeding or case in
21 which the Bureau, the state or federal government, an agency of this state, or an agency of
22 another state is involved.

23 6. It is understood by the parties that the Real Estate Commissioner may adopt
24 the Stipulation and Agreement as his Decision in this matter, thereby imposing the penalties
25 and sanctions on Respondent's real estate licenses and license rights as set forth in the below
26 Order. In the event that the Commissioner in his discretion does not adopt the Stipulation and
27 Agreement, it shall be void and of no effect, and Respondent shall retain the right to a hearing

1 and proceeding on the First Amended Accusation under all the provisions of the APA and shall
2 not be bound by any admission or waiver made herein.

3 7. The Order or any subsequent Order of the Real Estate Commissioner made
4 pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to
5 any further administrative or civil proceedings by the Bureau of Real Estate with respect to any
6 matters which were not specifically alleged to be causes for accusation in this proceeding.

7 8. Respondent understands that by agreeing to this Stipulation and Agreement,
8 Respondent agrees to pay, pursuant to Section 10148 of the California Business and Professions
9 Code ("the Code"), for the costs of Bureau of Real Estate ("Bureau") Audit No. FR-15-0028
10 (OA) which resulted in the determination that Respondent committed the audit violations found
11 in the Determination of Issues. The amount of such costs is \$2,935.50.

12 9. Respondent further understands that by agreeing to this Stipulation and
13 Agreement, Respondent agrees to be responsible for paying, pursuant to Section 10106 of the
14 Code, the costs of the investigation and enforcement of this case which resulted in the
15 determination that Respondent committed the violations found in the Determination of Issues.
16 The amount of such costs is \$3,744.10.

17 DETERMINATION OF ISSUES

18 By reason of the foregoing stipulations, admissions and waivers, and solely for
19 the purpose of settlement of the pending First Amended Accusation without a hearing, it is
20 stipulated and agreed that the following determination of issues shall be made:

21 The acts and omissions of Respondent, as described in the First Amended
22 Accusation, are grounds for the suspension or revocation of the licenses and license rights of
23 Respondent under the provisions of Sections 10185, 10186, 10177(d), and 10177(g) of the Code,
24 in conjunction with Sections 10145, 10145(g), and 10146 of the Code, and Sections 2831,
25 2831.1, 2831.2, 2832, 2832.1, 2970 and 2972 of Title 10, of the California Code of Regulations
26 ("the Regulations").

27 ///

1 b. That no final subsequent determination be made, after hearing or
2 upon stipulation, that cause for disciplinary action against Respondent occurred within two (2)
3 years from the effective date of this Decision and Order. Should such a determination be made,
4 the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or
5 a portion of the stayed suspension. Should no such determination be made, the stay imposed
6 herein shall become permanent.

7 3. Respondent shall, within six (6) months from the effective date of this
8 Decision and Order, take and pass the Professional Responsibility Examination administered by
9 the Bureau, including the payment of the appropriate examination fee. If Respondent fails to
10 satisfy this condition, Respondent's real estate license shall automatically be suspended until
11 Respondent passes the examination.

12 4. All licenses and licensing rights of Respondent are indefinitely suspended
13 unless or until Respondent provides proof satisfactory to the Commissioner, of having taken and
14 successfully completed the continuing education course on trust fund accounting and handling
15 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of
16 satisfaction of these requirements includes evidence that Respondent has successfully completed
17 the trust fund accounting and handling continuing education course, no earlier than one hundred
18 twenty (120) days prior to the effective date of the Decision and Order in this matter. Proof of
19 completion of the trust fund accounting and handling course must be delivered to the Bureau of
20 Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-
21 263-8785, prior to the effective date of this Decision and Order.

22 5. All licenses and licensing rights of Respondent are indefinitely suspended
23 unless or until Respondent pays the sum of \$3,744.10 for the Commissioner's reasonable costs
24 of the investigation and enforcement which led to this disciplinary action. Said payment shall
25 be in the form of a cashier's check or certified check made payable to the Bureau of Real
26 Estate. The investigative and enforcement costs must be delivered to the Bureau of Real
27 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective

1 date of this Order.

2 6. Pursuant to Section 10148 of the Code, Respondent shall pay the sum of
3 \$2,935.50 for the Commissioner's cost of Bureau Audit FR-15-0028 (OA), which led to this
4 disciplinary action. Respondent shall pay such cost within sixty (60) days of receiving an
5 invoice therefore from the Commissioner. Payment of this audit cost should not be made until
6 Respondent receives the invoice from the Commissioner. If Respondent fails to satisfy this
7 condition in a timely manner as provided herein, Respondent's real estate license shall
8 automatically be suspended until payment is made in full, or until a decision providing
9 otherwise is adopted following a hearing held pursuant to this condition.

10 8-31-17

11 _____
DATED

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13 _____
JASON D. LAZARK, Counsel
Bureau of Real Estate

14 * * *

15 I have read the Stipulation and Agreement and its terms are understood by me
16 and are agreeable and acceptable to me. I understand that I am waiving rights given to me by
17 the California Administrative Procedure Act (including but not limited to Sections 11506,
18 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently, and
19 voluntarily waive those rights, including the right of requiring the Commissioner to prove the
20 allegations in the First Amended Accusation at a hearing at which I would have the right to
21 cross-examine witnesses against me and to present evidence in defense and mitigation of the
22 charges.

23 8/16/2017
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DATED

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BRANDON LEE YAGER,
Respondent

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I have reviewed the Stipulation and Agreement as to form and content and have advised my clients accordingly.

8-21-17

DATED



FRANK M. BUDA,
Attorney for Respondent,
BRANDON LEE YAGER

The foregoing Stipulation and Agreement is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on OCT 24 2017

IT IS SO ORDERED 9/30/2017

WAYNE S. BELL
REAL ESTATE COMMISSIONER

